IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 1766 of 2007(I)

PETITIONER:

S. ANIL KUMAR, S/O.SHANMUGHAN PILLAI,
PUTHUPARAMBATH VEEDU, THRICHATTUKULAM P.O.,
CHERTHALA, ALAPPUZHA DISTRICT,
SECRETARY, UNDER SUSPENSION, SCB LTD.NO.46,
PERUMPALAM.

BY ADV. SRI.C.K.SAJEEV

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, DEPARTMENT OF CO-OPERATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE ASSISTANT REGISTRAR (GENERAL)
OFFICE OF THE ASST.REGISTRAR OF CO-OPERATIVE
SOCIETIES, CHERTHALA.

3. THE PRESIDENT, PERUMBALAM SERVICE
CO-OPERATIVE BANK LTD.NO.46, PERUMBALAM P.O.,
CHERTHALA.

BY SENIOR GOVERNMENT PLEADER SHRI P.K. RAVIKRISHNAN, R2
BY ADV. SRI.P.V.BABY
SRI.R.KIRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 A TRUE COPY OF THE LEAVE APPLICATIN SUBMITTED BEFORE THE THIRD RESPONDENT BY THE PETITIONER DATED 29.11.2006.

EXHIBIT P2 DO. DO. BEFORE THE SECOND RESPONDENT DATED 29.11.2006.

EXHIBIT P3 A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 29.11.2006.

EXHIBIT P4 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT DATED 18.12.2006.

EXHIBIT P5 A TRUE COPY OF THE NOTICE ISSUED BY THE THIRD RESPONDENT DATED 21.12.2006

EXHIBIT P6 A TRUE COPY OF THE STATEMENT GIVEN BY THE PETITIOINER TO THE THIRD RESPONDENT DATED 22.12.2006.

EXHIBIT P7 A TRUE COPY O THE ORDER ISSUED BY THE THIRD RESPONDENT DATED 27.12.2006.

RESPONDENTS' EXHIBITS: NIL

K. PADMANABHAN NAIR, J.

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W.P(C). NO. 1766 OF 2007

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Dated this the 14th day of February, 2007

J U D G M E N T

Petitioner is the Secretary of Perumbalam Service Co-operative Bank Ltd. He was placed under suspension as per Exhibit P7 order which is signed by the President of the Bank. Main challenge raised in this Writ Petition is that since the President is not the appointing authority of the petitioner, he is incompetent to issue Exhibit P7 suspension order.

2. A perusal of Exhibit P7 order shows that that is signed by the President of the Bank as authorised by the Board of Directors of the Bank. In **Chandrikamma v. Asst. Registrar (General) Co-op. Societies** (2000 (3) KLT 940) it was held that President being the chief Executive of the Board of Directors is entitled to issue a suspension order against the Secretary. I do not find illegality or irregularity or want of jurisdiction in the action of the President in signing the suspension order. So the Writ Petition is only to be dismissed.

3. Exhibit P7 order is silent regarding the payment of subsistence allowance. In view of the provision contained in Rule 198(6) of the Payment of Subsistence Allowance Rules, the petitioner is entitled to get subsistence allowance. The Bank shall claim and disburse the subsistence allowance admissible to the petitioner in accordance with the Rules as expeditiously as possible, at any rate, within one month from the date of receipt of the copy of this judgment.

4. Counsel for the petitioner submitted that suspension is totally unwarranted and hence a direction may be issued to finalise disciplinary proceedings within a time limit. After hearing both sides, I am of the view that a direction can be issued to the Bank, of which the third respondent is the President, to complete the disciplinary proceedings expeditiously. It goes without saying that the petitioner shall also co-operate with the enquiry proceedings.

In the result, Writ Petition is dismissed. However, there will be a direction to the third respondent, President of the Bank, to expedite the disciplinary proceedings and pass final orders

expeditiously, at any rate, within a period of six months from the date of receipt of a copy of this judgment.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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. R.P. NO.

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O R D E R

4TH JANUARY, 2007